THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO.10135 of 2005

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26.07.2005

Between:

1 Indukuri Sailaja Kumari, W/o. Rama Raju,
rep. by her GPA Holder Sri. Gorinta Ramavarma,

S/o. Surayanarayana Raju, Age: 59 yrs.,
R/o. Singarayapalem, Borrampalem Post,

T. Narsapuram Mandal, W.G. District.

And 4 others

...PETITIONERS

AND

1. The District, Collector, W.G. Dist. at Eluru.

And 2 others

...RESPONDENTS

Counsel for the Petitioners: MR.P.N.MURTHY

Counsel for the Respondents: GP FOR IRRIGATION & COMM AREA DEV.

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO.10135 of 2005

ORDER:

This Writ Petition is filed by the petitioners assailing the action of the respondents in not considering their case for leasing out the usufruct trees situated in the acquired lands as arbitrary, illegal and against the principles of natural justice.

Petitioner Nos.1 to 4 are the owners of land admeasuring Acs.6.98 cents in R.S.No.1/9B, Acs.6.98 cents in R.S.No.1/9B, Acs.6.98 in R.S.No.1/9B and Acs.4.51 cents in R.S.No.1/8A respectively situated in Vallampatla Village, T.Narasapuram Mandal, West Godavari District and petitioner No.5 is the owner of land of an extent of Acs.4.05 cents in R.S.No.394/2B2B situated in Mathannagudem II, Jangareddygudem Mandal, West Godavari District. Their lands were acquired and

compensation was paid to them. The Government issued Memo No.4244/Irr.II.1/80-9, dated 10.08.1981, where under the land owners are permitted to cultivate the lands on lease until the land is actually required by the authorities. It appears that the petitioners submitted representation dated 18.04.2005 to the authorities requesting to lease out the usufruct of the trees situated in the acquired lands in pursuance of the memo dated 10.08.1981. When their request is not acceded, they filed the present Writ Petition.

The petitioners moved W.P.M.P.No.13159 of 2005 seeking for interim direction. While admitting the Writ Petition on 29.04.2005, an interim direction has been issued to the respondents to dispose of the representation dated 18.04.2005.

In pursuance of the interim direction, the Executive Engineer, Indirasagar RMC Division, Jangareddygudem, considered the representation of the petitioners, passed order on 05.07.2005 and communicated the same to the petitioners. It is stated in the above referred order that the lease of the garden land under submersion is not possible as the above lands are in the elevation from + 81.05 to + 83.50 as the reservoir is gradually impounded during the period from July to October 2005. In nutshell, the contention of the respondents is that the entire garden lands are submersed and therefore, the question of lease of usufruct of the garden lands does not arise.

Heard the learned counsel for the petitioners and the learned Government Pleader for Irrigation.

The learned counsel for the petitioners submits that the writ petitioners are

prepared to give undertaking of not claiming any remission in case of their sustaining loss in harvesting the usufruct of the trees and therefore, the respondents cannot have any objection for granting the usufruct of the trees for lease.

On the other hand, the learned Government Pleader submits that the entire garden lands are submersed and therefore, the question of leasing out of the usufruct of the trees does not arise.

I have gone through the letter dated 05.07.2005 under which the Executive Engineer, Indirasagar RMC Division, Jangareddygudem considered the interim direction passed by this Court and informed the writ petitioners that their request cannot be acceded since the entire gardens are submersed. In view of the situation explained by the Executive Engineer in his letter dated 05.07.2005, the request of the respondents cannot be accepted.

The Writ Petition is devoid of merits and is accordingly dismissed.

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(B.SESHASAYANA REDDY, J)

26th July 2005

RRB